

FILED  
U.S. DISTRICT COURT  
NEW ALBANY DIVISION

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

11 MAY 13 AM 11:32

SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

DAVID A. WINNINGHAM, )  
17939 Pribble Road )  
Lawrenceburg, Indiana )  
Plaintiff, )  
vs. )  
AMERICAN ELECTRIC POWER )  
800 AEP Drive )  
Lawrenceburg, Indiana )  
Defendant. )

Case No.

4 :11 -cv- 055 RLY -WGH

**COMPLAINT UNDER TITLE VII FOR DISCRIMINATION**

Plaintiff brings a complaint against defendant American Electric Power from violation of the Americans with Disability Act and the Age Discrimination in Employment Act.

Plaintiff does demand a jury trial.

**I. PARTIES**

Plaintiff's Name, Address and  
Phone Number:

David A. Winningham  
17939 Pribble Road  
Lawrenceburg, IN 40725  
Tel. 812-539-4021

Defendant's Name and Address

American Electric Power  
800 AEP Drive  
Lawrenceburg, IN 47025

## **II. JURISDICTION**

1. This complaint is brought pursuant to 42 USC 12101 et. seq., and 29 USCS 621 et. Seq. Jurisdiction is based on 42 U.S.C. §2000e-5 and 28 U.S.C. §1331.

2. Plaintiff did timely file a charge of discrimination with the Equal Employment Opportunity Commission (Attached as Exhibit 1).

3. Plaintiff's Right to Sue Notice from the Equal Employment Opportunity Commission was received on or about February 18, 2010. (Notice of Right to Sue attached as Exhibit 2).

## **III. FACTS IN SUPPORT OF COMPLAINT**

The facts on which this complaint is based are the following: Plaintiff was, at the time of his discharge, Fifty years of age and an employee of the plaintiff. He and one other employee who, also was an older employee, were selected out of seniority for discharge. The reason given was completely false. Plaintiff was informed that he could no longer serve because he had a physical disability. Plaintiff was told that his perceived disability, which plaintiff claims does not exist, would interfere with his ability to serve on the fire brigade; that he could not wear the breathing apparatus. However, plaintiff's prior and current experience with local fire departments far surpasses others at the employer's facility and he has served as the leader of the fire brigade. He directs the operation from the outside and does not need to wear the breathing apparatus. Defendant completely ignored these facts, improperly changed his seniority status, and discharged him.

## **IV. STATEMENT OF LEGAL CLAIM**

Plaintiff is entitled to relief in this action because:

The facts show that the defendant deliberately and intentionally violated federal law under the ADEA and the ADA. and caused Plaintiff great harm as a result. Plaintiff should be permitted such relief as makes him whole again.

## **V. PRAYER FOR RELIEF**

Based on the foregoing, plaintiff seeks the following relief:

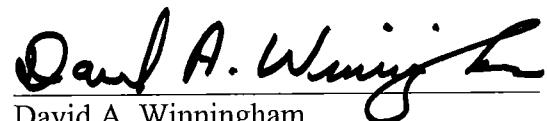
Plaintiff requests all pay and benefits permitted by the statute including back pay and fringe benefits with interest; compensatory damages of pain, embarrassment, and

humiliation; reinstatement, or in the alternative front pay for a reasonable length of time; attorney's fees; and all other reasonable relief that the Court may permit.

**VI. AFFIRMATION OF PLAINTIFF**

I, the plaintiff in the aforementioned cause, do affirm that I have read all of the statements contained in the complaint and that I believe them to be, to the best of my personal knowledge, true and correct.

Signed this 11 day of May, 2010.



David A. Winningham  
Plaintiff Pro Se